

SENDING CHEQUE FOR COLLECTION DIRECT

Supreme Court Releases Drawer in Important Case
Recently Decided

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IF A gives B a cheque drawn on C, B sends the cheque direct to C, and C fails to pay, under what circumstances will A be released from liability to B?

The above query was answered by the Supreme Court of Canada in the case of Rogers vs. Calgary Brewing Company, decided by the Supreme Court of Canada, in which Rogers gave the Brewing Company a cheque on the Estevan Security Company, and at the time Rogers had funds on deposit sufficient to meet the cheque. The brewing company deposited the cheque with the Bank of Montreal at Calgary on November 14, and the bank sent it direct to the Estevan Security Company. The security company did not remit, and the bank made no effort to enforce collection or to get back the cheque. Finally on December 10, the security company sent the Bank of Montreal a draft for the amount of the cheque drawn on the Union Bank, which the latter bank refused to honor.

Four days later the Estevan Security Company suspended payment; the brewing company sued Rogers on the cheque and the latter set up the defense that the Bank of Montreal as the agent of the brewing company was responsible for the non-payment, and that he (Rogers) was released from liability on the cheque.

The Supreme Court so held and decided in favor of Rogers. The following paragraphs from the judgment of the Chief Justice will show the view taken by the court:—

"The Bank of Montreal, acting as agent for the brewing company to collect the amount of Roger's cheque or draft on the Estevan Security Company, sent that cheque direct to the drawee by post, and, instead of insisting upon prompt payment out of the funds which Rogers then had available with that company for the payment of his cheque, chose to give the company almost one month's delay, and at the end accepted a worthless draft of the company which immediately after went into insolvency. On these facts, I do not entertain any doubt that Rogers was discharged of his liability to the brewing company for the amount of the cheque or draft, and that the appeal ought to be allowed. I am inclined also to doubt that there was a good presentment, and in any event notice of non-payment was not given in a reasonable time.

"Suppose the Estevan Company had had sufficient funds with the Union Bank on which the draft was made, but the Bank of Montreal, in place of taking cash, had again accepted the draft of the Union Bank on some other bank. The process might have gone on indefinitely. Could it be suggested that the liability of Rogers would always have continued, and that he could have been held responsible for the failure of the Union Bank or any subsequent bank whose draft the Bank of Montreal might have taken? It would just as true as in the present case that the brewing company had never received cash.

"It is no use for the manager of the Bank of Montreal to say that it did not appoint the Estevan Security Company their agent, because that bank does not appoint private bankers its agents, if that is what it in fact did. Suppose, as counsel for Rogers suggested, it had sent the cheque to the Express Company for collection, and it had taken the worthless draft instead of cash, what answer could the Bank of Montreal have had in face of this action of its agent? Why should it be allowed to repudiate the agency, because it sent it direct to the company on whom it was drawn? Further, the Bank of Montreal did not repudiate the discharge by the draft, did not send back the draft, but accepted and presented it in due course."

The Montreal Mining Exchange, which has been closed for some time, has now reopened.

NO METROPOLITAN SALE THIS YEAR

The bill to enable the city of Toronto to purchase part of the Metropolitan Railway from the Toronto and York Radial Co. came before the Ontario legislature just before it closed for the session. The government stated that it was unwilling to enact any legislation on such short notice, and the bill is, therefore, postponed for the time being.

PACIFIC MARINE INSURANCE COMPANY

The underwriting account of the Pacific Marine Insurance Co. for the year ended December 31st, 1918, shows premiums, less reinsurance agency charges and commissions, of \$761,144. There was also a balance at the end of 1917 of \$453,952, and premiums received on 1917 account to the amount of \$198,603, making a total of \$1,413,701. Claims paid totalled \$882,389, of which, however, only \$366,649 was on 1918 account. After meeting general expenses of \$24,423 and a transfer of \$3,959 to profit and loss account, the balance carried to balance sheet is \$502,928. Interest earnings were \$22,459, making a total available in the profit and loss account of \$26,418. Dividends at 10 per cent. required \$10,110, and a similar amount was transferred to reserve.

The balance sheet now shows total assets of \$689,857, including municipal and government bonds to the amount of \$174,549; amounts due from insurance companies and agents, \$359,004, and cash in bank, \$133,140. The liability on underwriting account is \$502,928; paid-up capital is \$101,100, and reserve is now \$40,440.

The managing director of the company is Mr. Leslie H. Wright, and the secretary-treasurer, Mr. W. Hobbs-Fernie. The head office is located in Vancouver. The company's business is extensive, underwriting agencies being located throughout Canada, United States, Great Britain and in Australia and Holland. There are also settling agencies in India, South America, China, Japan and other countries.

FOREIGN BOND AND SHARE CORPORATION

The purpose of the Foreign Bond and Share Corporation, which has just been formed under the laws of Delaware, is to finance public and private enterprises in Central and South America, the Far East, Europe, and other parts of the world. It will also sell to American investors either the debentures of the corporation, which will be covered by the deposit of the securities of these foreign companies, or the foreign securities themselves. It is the intention of this corporation to reach all classes of investors in the United States. The Foreign Bond and Share Corporation has an authorized capital stock consisting of 100,000 shares of common stock, of the par value of \$100 each, and 3,000 shares, with no par value, known as "participating certificates," and a subscribed capital and surplus of \$3,000,000.

The organizers of this corporation include private banking firms and some of the strongest financial institutions throughout the United States. Among them are Brown Brothers and Co., J. and W. Seligman and Co., Guaranty Trust Company, Chase Securities Corporation, Central Union Trust Company, Columbia Trust Company, Hayden, Stone and Co.—all of New York; First National Corporation of Boston; Hibernia Bank and Trust Company, New Orleans; First Trust and Savings Company, Cleveland; Anglo and London Paris National Bank, San Francisco; Mercantile Trust Company, Mississippi Valley Trust Company, and interests associated with National Bank of Commerce—all of St. Louis; and the Central Trust Company of Chicago. Other institutions have expressed their desire to take part in the enterprise.

The Manitoba Farm Lands Association is planning to launch a campaign for new members. A membership committee has been formed with the executive as a nucleus, and the work of organization will be pushed rapidly.